

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK ASKEW,)
Plaintiff) Civil Action
) No. 11-cv-04003
)
v.)
)
R.L. REPPERT, INC.;)
RICHARD L. REPPERT;)
R.L. REPPERT, INC. EMPLOYEES)
PROFIT SHARING 401(k) PLAN; and)
R.L. REPPERT, INC. MONEY)
PURCHASE PLAN (DAVIS BACON PLAN),)
)
Defendants)

* * *

R.L. REPPERT, INC.;)
RICHARD L. REPPERT;)
R.L. REPPERT, INC. EMPLOYEES)
PROFIT SHARING 401(k) PLAN; and)
R.L. REPPERT, INC. MONEY)
PURCHASE PLAN (DAVIS BACON PLAN),)
)
Third-Party Plaintiffs)
)
v.)
)
CALIFORNIA PENSION ADMINISTRATORS &)
CONSULTANTS, INC.,)
)
Third-Party Defendants)

O R D E R

NOW, this 4th day of February, 2016, upon
consideration of the following documents:

- (1) Plaintiff's Motion for Partial Summary Judgment (Counts I, IV - Reppert Pension Plans) and Dismissal (Reppert Health Plans), which motion

was filed on April 10, 2015 (Document 73), together with

Memorandum of Law in Support of Plaintiffs' [sic] Motion for Partial Summary Judgment and Dismissal (Document 73-1);

- (2) Response to Motion for Partial Summary Judgment, which response was filed by defendants on April 24, 2015 (Document 78);
- (3) Plaintiffs' [sic] Reply Memorandum of Law in Support of Plaintiff's Motion for Partial Summary Judgment and Dismissal, which reply was filed on June 19, 2015 (Document 87);
- (4) Defendants and Third Party Plaintiffs R.L. Reppert, Inc. et al.'s Motion for Summary Judgment Against Plaintiff Derrick Askew, which motion was filed on July 31, 2015 (Document 90), together with

Defendants and Third Party Plaintiffs R.L. Reppert Inc., et al.'s Memorandum of Law in Support of Their Motion for Summary Judgment Against Plaintiff, Derrick Askew; and
- (5) Plaintiff's Response to Defendant Reppert's Motion for Summary Judgment, which response was filed on August 14, 2015 (Document 92);

upon consideration of the pleadings, exhibits, affidavits, deposition and record papers, and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that plaintiff's motion for partial summary judgment is granted in part and denied in part.

IT IS FURTHER ORDERED that plaintiff's motion for partial summary judgment is granted regarding liability (but not damages) for that part of Count One of plaintiff's Class Action Complaint alleging defendant R.L. Reppert, Inc.'s failure to

provide plan documents for the R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan in a timely manner and for that part of Count One alleging defendant R.L. Reppert, Inc.'s failure to produce the custodial agreement with Nationwide Trust Company, FSB.

IT IS FURTHER ORDERED that plaintiff's motion for partial summary judgment is denied in all other respects.

IT IS FURTHER ORDERED that defendants' motion for summary judgment is granted in part and denied in part.

IT IS FURTHER ORDERED that defendants' motion for summary judgment is granted regarding that part of Count One of plaintiff's Class Action Complaint alleging R.L. Reppert, Inc.'s failure to provide plan documents for the R.L. Reppert, Inc. Money Purchase Plan (Davis Bacon Plan) and that part of Count One alleging R.L. Reppert, Inc.'s failure to produce trust agreements, periodic benefits statements, notice of vested deferred benefits, disclosure of financial reports, Section 404(c) disclosures, notice of qualified default investment, notice of availability of investment advice and depository documents for the R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan.¹

¹ In Counts One and Two of his Class Action Complaint, plaintiff claims that he is entitled to these documents or categories of documents. I refer to them by the titles and terms that plaintiff himself uses.

IT IS FURTHER ORDERED that defendants' motion for summary judgment is granted regarding that part of Count Four of plaintiff's Class Action Complaint alleging R.L. Reppert, Inc.'s failure to conduct audits of the R.L. Reppert, Inc. Money Purchase Plan (Davis Bacon Plan).

IT IS FURTHER ORDERED that defendants' motion for summary judgment is granted on Counts Two, Three, Five and Six of plaintiff's Class Action Complaint.

IT IS FURTHER ORDERED that defendant's motion for summary judgment is denied regarding that part of Count One of plaintiff's Class Action Complaint alleging R.L. Reppert, Inc.'s failure to provide plan documents for the R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan in a timely manner and that part of Count One of plaintiff's Class Action Complaint alleging R.L. Reppert, Inc.'s failure to provide custodial agreements relating to the R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan.

IT IS FURTHER ORDERED that defendant's motion for summary judgment is denied regarding that part of Count Four of plaintiff's Class Action Complaint alleging R.L. Reppert, Inc.'s failure to conduct audits of the R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan.

IT IS FURTHER ORDERED that judgment is entered in favor of defendants, R.L. Reppert, Inc., Richard L. Reppert, the

R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan, and the R.L. Reppert, Inc. Money Purchase Plan (Davis Bacon Plan), and against plaintiff, Derrick Askew, on Counts One and Four of plaintiff's Class Action Complaint, with respect to the R.L. Reppert, Inc. Money Purchase Plan (Davis Bacon Plan).

IT IS FURTHER ORDERED that judgment is entered in favor of defendants, R.L. Reppert, Inc., Richard L. Reppert, the R.L. Reppert, Inc. Employees Profit Sharing 401(k) Plan, and the R.L. Reppert, Inc. Money Purchase Plan (Davis Bacon Plan), and against plaintiff, Derrick Askew, on Counts Two, Three, Five and Six of plaintiff's Class Action Complaint.

BY THE COURT:

/s/ JAMES KNOLL GARDNER

James Knoll Gardner
United States District Judge